

REMARKS

Claims 2-20 and 22-42 are currently pending in the present application. The previously indicated allowability of claims 22-28 and 37 is gratefully acknowledged. Reconsideration of the remaining claims is respectfully requested in light of the amendments and arguments submitted herein.

REJECTIONS UNDER 35 U.S.C. §102:

Claims 2-9, 11-14, 32 and 36 were rejected under 35 U.S.C. §102(b) as being anticipated by VanDenberg, U.S. Patent No. 5,718,445. Independent claim 2 defines a vehicle suspension assembly that comprises, among other things, a first control arm adapted to be pivotally coupled to a first frame member and an axle, a second control arm adapted to be pivotally coupled to a second frame member and an axle, and a rigid first torsional member coupled to the first control arm along a length of the first control arm rearward of the first bushing and forward of an axle, and coupled to the second control arm along a length of the control arm rearward of the second bushing and forward of an axle, and wherein the first torsional member is fixedly coupled to the first control arm proximate the first end of the control arm, and wherein the torsional member is fixedly coupled to the second control arm proximate the first end of the second control arm. VanDenberg does not disclose the torsional member being coupled to associated control arms proximate an end thereof. Specifically, VanDenberg discloses a stabilizer bar affixed to associated control arms at nearly a midpoint of the control arms. While “proximate” is a relative term, it must be afforded the plain meaning within the context of the claim. As set forth in MPEP 2111.01, the words of a claim must be given their “plain meaning unless they are defined in the specification.” Specifically, “ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.” *Leibel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906, 69 U.S.P.Q.2d 1801, 1807 (Fed. Cir. 2004). *Merriam-Webster*, copyright 2007, defines “proximate” as “very near.” As VanDenberg ‘445 fails to disclose a control arm that is

“proximate” ends of associated control arms, it cannot anticipate that which is defined in newly independent claim 2.

Accordingly, claim 2 is in condition for allowance. Claims 2-17 are dependent from independent claim 2 which is in condition for allowance, as noted above, and are therefore also in condition for allowance. In addition, claim 8 defines the bushings of the first and second ends of the first and second control arms as each including an aperture extending therethrough, wherein the aperture is elongated, and is therefore also allowable over VanDenberg for this additional reason.

CLAIM REJECTIONS UNDER 35 U.S.C. §103:

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over VanDenberg in view of Mair, U.S. Patent No. 6,409,280. Applicants believe this rejection to be moot in view of the amendments as noted above. However, Applicants further note that the Mair patent is directed to, defines and discloses a truck and trailer hub and is non-analogous art. Specifically, claim 10 defines a the coupling of a torsional member between control arms in the associated vehicle suspension assembly, while Mair discloses a truck and trailer axle hub. It is well known that the scope of pertinent prior art has been defined as that reasonably pertinent to a particular problem with which the inventor was involved. *Lindemann Maschine Fabrik GmbH. v. American Hoist and Derrick Co.*, 730 F.2d 1452, 1460, 221 U.S.P.Q. 481, 487 (Fed. Cir. 1984) quoting *Stratoflex, Inc. v. Aeroquip Corp.* 713 F.2d 1530, 1535, 218 U.S.P.Q. 871, 876 (Fed. Cir. 1983). Moreover, the standard for finding obviousness is based on “ordinary skill in the art,” which in the present application are those associated with heavy duty vehicle suspension systems, not “anyone of sufficient skill in the art of attaching a metal tubular member to another member,” as is argued in the Office Action. Therefore, Applicants submit that it is improper to combine that which is taught in the respective references as they are non-analogous art.

Claims 15 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over VanDenberg in view of Bell, U.S. Patent No. 1,984,565. The rejection is based on an argument that Bell teaches a vehicle wheel suspension assembly with an L-shaped control arm on which a bar is connected to an elbow, and that it would have been

obvious to one of ordinary skill in the art at the time of the invention to applied the teaching of Bell of an L-shaped control arm to the vehicle suspension assembly of Pierce [sic.] and have coupled the torsion bar to the elbows of the first and second arms to allow for the torsion member to be coupled to the control arm in a spot other than the connecting point between the control arm and the vehicle frame member while still being connected to the end of the control arm. However, none of the support for this combination, and specifically for the arrangement as argued, is taught, motivated or suggested in the art, nor would it have been obvious to one of ordinary skill in the art. Specifically, the arguments are based on an assumption that it would have been obvious to attach a torsional member into a point that, within Bell, is currently occupied by a pivot bushing, that it would have been obvious to replace this pivot bushing with a fixed connection between the control arm and the pivot member (as taught by Bell) and that it would have further been obvious to replace the pivot member extending between the pivot point located along the length of the control arm and the chassis, with a torsional member extending between a pair of control arms. The Examiner's argument of "L-shaped control arms are common in the art" does not appear to address the Applicant's arguments.

Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over VanDenberg in view of Goby, U.S. Patent No. 2,823,927. Specifically, it is argued that Goby teaches a vehicle suspension system that comprises at least one control arm, the end of which is fork-shaped and attached to an associated vehicle's axle, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaches of Goby's fork-shaped control arm to the vehicle suspension assembly of VanDenberg et al. to reduce friction between the axle and the control arm. However, Applicants are unsure as to how one would incorporate the forked-end of Goby with the bushings of VanDenberg, and contend that such a significant reconfiguration of that which is actually taught by Goby would not have been obvious.

Claims 18-20 and 29-35 were rejected under 35 U.S.C. §103 as being unpatentable over VanDenberg in view of Conover, U.S. Patent No. 6,832,772. Specifically, it is argued that Conover teaches a torsion bar that is configured to be

pivotably attached to a pair of control arms. However, Applicants note that it is impossible to pivot the tube (5) with respect to the lever arms (1, 2) subsequent to full assembly with the bolt, nut and washer assembly (6). Applicants contend that a prima facie case of obviousness has not been met, and that Conover simply does not disclose that which is being argued in the Office Action. Conover does not disclose the necessary pivoting motion unless Conover is modified from what it teaches. Therefore, claims 18-20 and 29-35 would not be obvious in view of the cited combination.

Accordingly, claims 2-20 and 22-42 are believed to be in condition for allowance and a Notice of Allowability is earnestly solicited.

Respectfully submitted,

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